IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5861 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GEETA WOOD WORKS & SAW MILLS - Petitioner(s)
Versus
CHARITY COMMISSIONER & 5 - Respondent(s)

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Appearance :
MR BP MUNSHI for Petitioner(s) : 1,
DS AFF.NOT FILED (N) for Respondent(s) : 1 – 6.
MR SP HASURKAR AGP for State

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CORAM : HONOURABLE MR.JUSTICE M.R.SHAH
Date : 07/04/2006

ORAL JUDGMENT

1.RULE. Mr.SP Hasurkar, learned AGP and Mr.MI Merchant, learned advocate waive the service of rule on behalf of the respondent Nos.1 and 2 & 4, respectively.

2.By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the legality and validity of the order dtd.24/3/2006 passed by the Charity Commissioner below Ex.32 in Misc.Civil Application No.55 of 2005. The petitioner has also prayed for appropriate writ, order and/or directions directing the Charity Commissioner - respondent No.1 to extend the interim stay in terms of the order dt.29/12/2005 passed below Ex.4 in Civil Misc.Application No.55 of 2005 till hearing and final disposal of the said Civil Misc.Application No.55 of 2005. A prayer is also made to direct the respondent No.1 – Charity Commissioner to expedite the hearing of Civil Misc. Application No.55 of 2005.

3.It appears from the record that the petitioner has approached the Charity Commissioner –

respondent No.1 by way of Civil Misc. Application No.55 of 2005 for certain reliefs and the directions by the Charity Commissioner with respect to the Trust in question. It also appears that in the aforesaid application, an application Ex.4 was submitted for interim relief and by order dtd.29/12/2005, the learned Charity Commissioner granted the interim relief which was continued from time to time on the application submitted by the petitioner. It also appears from the record that lastly the matter was before the learned Charity Commissioner on 27/2/2006 and it is the case of the petitioner that through over-sight and bonafide mistake, application could not be submitted for extension of the ad-interim relief by the learned advocate appearing on behalf of the petitioner and the matter came to be adjourned without extending the ad-interim relief, which was granted earlier on 29/12/2005 below application Ex.4.

Having realized the mistake, the petitioner submitted an application for extension of the ad-interim relief vide an application Ex.32 on 13/3/2006 which has been ejected by the learned Charity Commissioner vide impugned order dtd.24/3/2006, on the ground that when the matter was on 27/2/2006, application for extension of the ad-interim relief was not submitted and thereafter, there is no interim relief. Being aggrieved by and dissatisfied with the said order, the present petitioner has preferred the present petition under Articles 226 and 227 of the Constitution of India for the aforesaid reliefs.

4.In pursuance to the notice issued by this Court, Mr.MI Merchant learned advocate appears on behalf of respondent Nos.2 and 3 as main contesting party and Mr.Hasurkar, learned AGP appears on behalf of the respondent No.1.

5.Mr.Merchant learned advocate appearing on behalf of the respondent Nos.2 and 3 has submitted that the next date of hearing of the main application before the Charity Commissioner is 17/4/2006 and till then no further actions will be taken by the respondent Nos.2 and 3.

6.Mr.Hasurkar, learned AGP has submitted that if fullest cooperation is given by the parties and the adjournment is not sought for, the Charity Commissioner will decide and dispose of the Civil Misc.Application No.55 of 2005 along with other cognate applications pending between the parties, on 17/4/2006 itself.

7.At this stage, Mr.NV Solanki along with Mr.BP Munishi, learned advocates appearing on behalf of the petitioner as well as Mr.MI Merchant appearing on behalf of the respondent nos.2 and 3 under the instructions of their respective

clients have made a statement that they will give fullest cooperation to the Charity Commissioner for early disposal of the aforesaid Civil Misc. Application No.55 of 2005 and other cognate applications pending between the parties and they well not ask for adjournment on 17/4/2006 and the arguments will be completed on 17/4/2006 itself.

8.Under the aforesaid circumstances, the learned Charity Commissioner – respondent No.1 is hereby directed to decide and dispose of the Misc.Civil Application No.55 of 2005 along with other cognate applications pending before him between the same parties on or before 28/4/2006 and may complete the hearing of the said proceedings on 17/4/2006 itself and until then, so as to see that the aforesaid application may not become infructuous, the ad-interim order passed by learned Charity Commissioner below application Ex.4 on 29/12/2005 in Civil

Misc.Civil Application No.55 of 2005 which was continued up to 27/2/2006 is directed to be continued till final disposal of the aforesaid application.

9.However, it is made clear that this Court has not expressed any opinion on the merits of the case in favour of either party and by continuing the ad-interim orders till final disposal as aforesaid, it may not be construed that this Court has expressed any opinion in favour of the petitioner. This Court has continued the ad-interim order as the same was continued and extended from time to time and the main application is to be heard on 17/4/2006. It is ultimately for the appropriate authority to take appropriate decision in accordance with law and on merits.

10.With these observations and directions, the present application stands disposed of. DS

Permitted.

(M.R.SHAH,J.)

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